IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.2175 of 2007

Sanjay Mahadik & ors. Applicants
Vs.
State of Maharashtra & anr. Respondents

Mr.A.V.Chatuphale for applicants.
Ms.R.C.Dhuru for resp.no.2.
Mr.P.A.Pol, APP for State.

CORAM: B.H.MARLAPALLE, J.

September 12, 2007.

P.C.

. Heard Mr.Chatuphale, the learned counsel for the applicants and Ms.Dhuru appears for the respondent no.2.

. The applicant no.1 and the respondent no.2 were married on 27/2/1996. After about seven years of the marriage the respondent no.2 filed a complaint under Sections 406 and 498-A read with Section 34 IPC with the Vithalwadi Police Station. In investigation the charge-sheet came to be filed before the learned Judicial Magistrate, First Class at Ulhasnagar in C.C. No.499 of 2003 and the same is pending for trial.

. The respondent no.2 - wife approached the Family Court at Mumbai and filed a petition for divorce sometimes in the year 2003 and about three years later the applicant no.1 and the respondent no.2 decided to annul the marriage by consent. Consent Terms were signed and their compliance was reported before the Conciliator on 1/8/2006. They applied for divorce by mutual consent under Section 13(B) of the Hindu Marriage Act and consequently the decree of divorce was granted on 1/8/2006 by the Family Court at Mumbai.

. They jointly approached the trial Court and moved an application for compounding the offences. However, the learned Magistrate was pleased to reject the said application at Exhibit 17 by his order dated 14/8/2006. Under Section 320 of Cr.P.C. the offence punishable under Section 498-A of IPC cannot be compounded even with the leave of the Court and hence this petition for the very same prayer.

. Perused the Consent Terms signed between the parties on 5/6/2006, the decree of divorce by mutual consent granted on 1/8/2006 by the Family Court as well as the application at Exhibit 17 submitted in

C.C. No.499 of 2003 before the learned Judicial Magistrate, First Class at Ulhasnagar and by relying upon the law laid down in the case of B.S. Joshi and ors. Vs. State of Haryana & anr. **[2003 SCC (Cri) 848]**, I am satisfied that this is a fit case to invoke the inherent powers under Section 482 of Cr.P.C. and quash the pending complaint.

. Hence the petition is allowed and the proceedings in C.C. No.499 of 2003 presently pending before the learned Judicial Magistrate, First Class at Ulhasnagar are hereby quashed and set aside on account of the Consent Terms signed between the parties leading to annulment of their marriage by consent. Consequently the respondent no.2 - wife will be at liberty to approach the trial Court for withdrawal of the amount deposited by the applicant no.1.

(B.H.MARL